



**U.S. Department of Justice**

*United States Attorney  
Southern District of New York*

*The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007*

November 18, 2019

# **MEMO ENDORSED**

## **BY ECF**

The Honorable Katherine Polk Failla  
United States District Judge  
Southern District of New York  
40 Foley Square  
New York, NY 10007

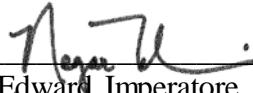
**Re:    *United States v. Brent Borland, 18 Cr. 487 (KPF)***

Dear Judge Failla:

The Government respectfully requests an extension of its deadline to respond to the defendant's October 25, 2019 letter (the "October 25 Letter") regarding (i) the loss calculation, pursuant to U.S.S.G. § 2B1.1, in the Probation Department's Presentence Investigation Report (the "PSR"), and (ii) relevant conduct to be considered at sentencing, including with respect to the loss calculation (Dkt. 48), which is currently due on November 22, 2019. The defendant's October 25 Letter was filed in response to the Court's order granting the parties' request to, in connection with sentencing, brief a particular legal issue that is ripe for resolution in advance of sentencing, namely, whether U.S.S.G. § 2B1.1 cmt. 3(E)(ii) applies to reduce the loss amount reflected in the PSR. (Dkt. 45). The defendant's October 25 Letter addresses this legal issue, and also addresses additional issues, for example, regarding a related real estate scheme by the defendant which the Government has argued is relevant conduct at sentencing in this case. The Government has conferred with defense counsel, who conveyed to the Government the reasons why the October 25 Letter advances these additional arguments, and who consents to the Government's request for additional time to file its responsive brief in order to address these additional arguments. The Government respectfully requests, with the consent of the defense, an extension of the briefing schedule as follows: the Government's brief is due December 6, 2019; and the defendant's reply brief is due December 20, 2019.

Respectfully submitted,

GEOFFREY BERMAN  
United States Attorneys

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CC (by ECF): Robert Baum, Esq.

Application GRANTED.

Dated: November 19, 2019  
New York, New York

SO ORDERED.



HON. KATHERINE POLK FAILLA  
UNITED STATES DISTRICT JUDGE